THE COURTS.

The Extradition Case of Carl Vogt Decided.

HE IS TO BE SURRENDERED.

Application to Vacate the Harry Genet Attachment.

THE ROLLWAGEN WILL CASE.

Important Decisions in the Common Pleas.

Some time since application was made on behalf of the fludson River and New York Central Railroad Company to have the Metropolitan Gaslight Company sell them a triangular piece of land in the vicinity of Sixty-fifth street and Hudson River, to be used for turnouts in reaching its grain elevators in process of construction by the river. Judge Donahue yesterday granted the appication, and appointed Messrs. Edward P. Don-celly, John S. Lawrence and John Hayes commis-

A motion was made yesterday, before Judge Curtis, in Superior Court, Special Term, for a commission to take the testimony of Spence Petrus in a suit brought by the New York Guaranty and Indemnity Company against Roberts and Gleason, aleged to be implicated in the forgery of railroad bonds with Pettus. The motion was opposed on the ground that Pettus, being a convict in State Prison, his testimony could not be used. Decision

A lengthy argument was had yesterday befor General Term of the Court of Common Pleas, on an appeal from the decision of Judge Van Brunt, allowing \$5,000 compensation to the com-mittee of the estate of H. B. Colah, the wealthy Parsee merchant, some time since returned in a state of insanity to his native country. The ap-Mr. A. Cakey Hail argued the case for the appeal, and Stephen A. Walker in opposition. The Court took the papers, reserving its decision.

In the Court of Oyer and Terminer yesterday orty-nine out of a panel of one hundred petit jurors tailed to attend. Judge Barrett directed that the delinquents appear before him on Thurssay and show cause why they should not be punshed for contempt of Court.

The Supreme Court, General Term, Judges Davis, Brady and Daniels on the bench, entered pesterday on its March term. It was expected during the February term. The Court gave notice. however, that no decisions would be rendered un. Monday next.

Judge Donahue, in Supreme Court, Chambers, suit of Furman against the Bull's Head Bank. It was made conditional, however, that the defendant give a bond of \$5,000 to indemnily plaintiff for any damage he may sustain through the va-

CARL VOGT EXTRADITED.

The long-contested case, in which the extradistaimed by two governments in succession-first by the government of the German Empire and terwald by the Belgian government-has at last reached all but its final stage. Yesterday Commissioner White rendered his decision holding Post for the action of the Executive, and decidproven against him. It will be remembered that Vogt was charged with having, on the nightjof the lat and 2d of October, murdered the Chevaller de Bianco, a Belgian nobleman; then setting fire to toom, by which the body was considerably ourned, and afterward stealing from a safe kept in an adjoining room bonds and securities and moneys to a very large amount. He was subsequently traced to this country and arrested and some of the stolen bonds and securities found upon him. There was then no extradition treaty being a German subject, the German government applied for his extradition. On the evidence taken in the examination then held the Commissioner recommended his extradition and was sustained by the Circuit Court of this district. On represen tauon, however, to the Executive, it was held by the Attorney General that Vogt could not be

extradited under the German treaty, and he was discharged, but again arrested for bringing stolen property into the United States. In the meaniums a treaty of extradition has been executed between the Belgian government and the United States, and which contains a special provision govering this particular case of Vogt. This prisoner's counses holds to be just as unconstitutional as an ex post lacto law, and an apecial provision govering this particular case of Vogt. This prisoner's counses holds to be just as unconstitutional as an ex post lacto law, and an apecial provision between the post of the latter of th

here if the alleged crimes had been committed here and charged against him. I do consider the proofs are suf-nicient for this, and must therefore commit the prisoner to await the issuance of a warrant for his extradition by the proper executive authority of the sovernment. The Commissioner has forwarded the necessary certified papers in the case to the Executive, but it is likely before final action is taken by the government an appeal will be made to the Circuit Court of this district, as was done on the previous ruling of the Commissioner.

HENRY W. GENET'S PROPERTY. It is claimed by the city that Henry W. Genet fraudulently obtained from the city some \$300,000 Harlem Court House. An attachment was obtained against his property in a suit brought by the city to recover the money. Some time since a motion was made in Supreme Court, Chambers, to set aside this attachment, on the ground that it was not set forth in the amdavit upon which the was not set forth in the amdavit upon which the attachment had been granted that Genet had absconded for the purpose of defrauding his creditors. This motion was denied and an appeal taken to the General Term, where the case was argued at length yesterday. Mr. Oliver W. West appeared for Mr. Genet and urged that the attachment should be set aside, because the only paper upon which it was granted—an amdavit of Henry F. Taintor—is totally and stally insufficient. Mr. West read from this addavit, and claimed that it was all upon hearsay, and that it did not show that the city had any cause of action against Genet; that it did not specify the amount of the claim against him; that it did not clarge any fraudulent intent upon Genet; that it did not snow that he add departed from the State, or that he sept himself concealed therein, all or some of which the code imperatively requires to appear by the addavit in order to authorize a warrant of attachment. He also read from several decisions of the General Term and Court of Appeals in support of his views, and insisted with emphasis that in the absence of any charge of fraudulent intent by the city such intent could not be assumed and imputed in the case to Genet who, he said, never was known to have cheated a human being out of a dolar of his due. Mr. John E. Parsons followed in behalf of the city, claiming that it was not necessary to charge any intent, or it is were, then that it was inferrible from the affidavit. At the close of the argument the Court took the papers and reserved its decision. attachment had been granted that Genet had ab-

THE ROLLWAGEN WILL CASE. An interesting legal question involving the right of discontinuance of actions as matter of course came up in the Supreme Court, Chambers, yesterday before Judge Donohue, in a branch of the famous Rollwagen will case. In an action begun in that Court by one of the heirs of Mr. Rollwagen to contest the validity of the latter's will in regard to his real estate, the widow, as will be remembered, made an application for a monthly allowance. It appears that the income of the estate is some \$3,000 monthly, but that the widow has not been, pending the litigation, allowed a cent out of this estate for her support. The contestants of the Rollwagen will having been successful at the last General Term, on the appeal from the Surrogate, were satisfied to drop the Supreme Court action and made to enfer to do so at once, in order to cut off the widow's application for allowance, her attorneys refused to accept discontinuance, and the motion yesterday was made to compet them so to do. Mr. Henry Arnoux, on behalf of the widow, opposed the motion on the ground that discontinuance is not a matter of right, but is a matter within the control of the Court, and that the Court exercise its discretion and refuse discontinuance in case injustice would be done to any of the parties by permitting. Mr. Henry L. Chinon supported the motion, by taking an opposite view of the case and citing opposing authorities. Judge Donohue took the papers, reserving his decision. gard to his real estate, the widow, as will be re-

SUPERIOR COURT-TRIAL TERM-PART 1. Before Judge Freedman.

DAMAGES FOR PUTTING HIS FOOT IN IT. In 1871 Patrick McGahey was employed in the paper mill owned by Henry A. Philip and others at Locust Valley, Long Island. He stepped into a hole for the reception of waste paper, when his foot was caught in the machinery, causing injuries, on account of which he was for fourteen months on account of which he was for fourteen months under medical treatment. He brought suit for \$25,000, and the trial of the case was begun yesterday in this Court. The desence is that the accident occurred through the plaintiff's own negligence, while it is contended for the plaintiff that defendants were guilty of neglect in not so protecting the hole as to make such an accident impossible. The trial is likely to occupy a day or two.

SUPERIOR COURT - TRIAL TERM -PART 2. Before Judge Monell.

KILLED BY AN ELEVATOR. Elizabeth Halliday brought suit against William Watson & Co., to recover damages on account of the killing of her husband through the breaking of the rope of an elevator in a building owned by Mr. Watson. The evidence showed that the decased got in the elevator, which was loaded with goods, that the elevator, which was loaded hoisting and letting down goods, and that he had no business in it. Upon this state of lacts and the further fact that the decased knew the de-lective condition of the role, the motion to dis-miss the complaint was sustained, on the ground of contributive negligence.

COMMON PLEAS-GENERAL TERM. Before Chief Justice Daly and Judges Robinson and Loew.

EXONERATING A CAR DRIVER. William Failen, Jr., a boy five years old, was East River Railroad Company. As the boy ran East River Railroad Company. As the boy ran out of his father's house on to the track and thus was run over, it was claimed at the trial in the Court below that he was guilty of contributive negligence. On the other side it was contended that the lault was wholly that of the driver. A verdict was given for the railroad company and this Court sustains the judgment.

LIEN ON A BLOWN DOWN HOUSE. In the suit of Muchlit against Rusk, plaintiff fied a mechanic's lien on a house of defendant; but the fact came out on the trial that before the filing of the lien, but without the knowledge of the plaintiff, the house had been blown down. The Court on appeal holds that under the circum-stances the lien could not attach, inasmuch as at the time of being filed the house had no legal or actual existence.

A MARRIED WOMAN'S SEPARATE ESTATE. Mary A. Cantrell, a married woman, became inservices as seamstress. The debt not being paid services as seamstress. The debt not being paid suit was brought against Mrs. Cantrell to compel its payment. The defence was that the debt being for necessaries her husband was liable. The Court holds that the defendant having a separate estate she is properly charged with the debt.

LIABILITY FOR A VICIOUS HORSE. The carriages respectively owned by George S. Hastings and Edward F. Young were stopped in close proximity on Broadway to make room for a procession. One of the horses attached to Mr.

RESPONSIBILITY OF TRUSTEES.

A. G. Studwell and others were trustees for a by the Hugnenot National Bank of New Paitz for the recovery of a debt. The evidence showed that under the General Manufacturing act, under which the corporation of which Studwell and others were trustees was organized, the latter could only relieve themselves of liability by filing within twenty days after the list of January their report. As they had failed to do this the Court holds them to their first liability.

COURT OF COMMON PLEAS-SPECIAL

TERM. Before Judge J. P. Daly.

A WARNING TO THE CONTEMPTUOUS. Some time in January last Judge Daly granted an injunction on the application of Colonel George H. Hart restraining one L. Stuart and his servants from interiering with the premises of one Solomon Freedman, at No. 1,258 Broadway. At this time Stuart, who was the lessor of the premises, employed carpenters with the intention of constructing a dumb waiter through the premises leased to Freedman. The boss of the carpenters employed

Freedman. The boss of the carpenters employed is one John Guy. The injunction order was properly served on Staart and shown to the carpenters employed by Guy, and Guy had inlik knowledge of the order. In defiance of the injunction Staar, and Guy continued the work on the dumb waiter, remaing to be restrained.

Coincel Hart then applied to Judge Daiy for a rule to cause Guy and Stuart to answer for contempt of Court, which Judge Daiy promptly granted. Stuart and Guy appeared by able counsel, but were not able to excuse themselves to the satisfaction of the Court, Judge Daiy finding them guilty of whilst contempt of court. Judge Daiy anding defined that Stuart and Guy each should pay a fine of \$250 to indemnify Freedman for the injury done his rights and remedies by reason of the violation of the injunction, and that both Guy and Stuart be imprisoned in the common jail of the

county for a period of thirty days, and in case the fines were not paid to be further imprisoned until they are paid, not exceeding thirty days. The fine was promptly paid, but on the parties satisfying the Court that their intention was not malicious in disobeying the injunction, and the counsel for the plaintiff not being desirous of exacting the extreme penalty imposed, Judge Daly was induced to remit the imprisonment, but the fine of \$500 was paid over to the Clerk of the Court.

Before Judge Loew. INTERESTING PARTY WALL CASE In February last Julia Oakley, as tenant of No. 20 West Tairty-second street, through Messrs. Hall & Blandy, her counsel, applied for an injunction to restrain John Feitretch from using her wall as a party wall, and also from carrying said wall back the depth of his lot and raising its height. Judge Loew filed his decision in the case yesterday. He held "that the desendant should be enjoined from extending the party wall." This is important, as determining the rights of tenants, and should be considered by all real estate owners.

DECISIONS.

SUPREME COURT—CHAMBERS.
By Judge Lawrence.
Muller vs. Muler vs. Herry Grundy vs. Baldwin.—Memo-Horif vs. Cruger.—I think that the examination Horif vs. Cruger.—I think that the examination should proceed.
Hogan vs. Oakley.—Upon payment of \$10, coats of motion, the plaintiff may set case down for trial on first Monday of April Term and serve notice of trial for that time.
In the matter of Harris.—In this case the proofs on the part of the city have been handed in, but the papers originally presented and which were returned for want of such proofs have not been submitted.

returned for want of such proofs have not been submitted.

In the matter of Ferris,—There is no proof before me that notice of this application has been given to the parties interested.

Hirsh vs. Hirsh.—In this case I think that there should be more specific proof of the previous marriage of the defendant.

Graham vs. Currie.—Motion to strike out parts of answer denied, with \$10 costs.

Lewis vs. Ross.—Motion to file a supplemental answer denied, with cost of motion.

Hyman vs. Brinn.—Upon payment of \$10 costs of motion and the defendant's costs before notice of trial this case may be set down for trial on the third Monday of March, otherwise the notice to dismiss is granted, with \$10 costs.

By Judge Donohue.

Kamp vs. Burgraff.—Memorandum.

Wiswell vs. Ireland; Alton vs. Ledrald.—

Granted.

Wiswell vs. Ireland, Granted. Hart vs. Bouckeault.—Denied. Hart vs. Kridel.—Motion granted; costs to Wheidon vs. Kridel.—Motion granted; the New

wheton vs. Krieel.—Motion granted; costs to abide the even.

In the matter of the application of the New York Central and Hudson River Railroad Com-pany for the appointment of commissioners of ap-praisa; of land of the Metropolitan Gas-Light Com-pany.—Application granted.

SUPREME COURT—SPECIAL TERM.
By Judge Van Brunt.
Simpson vs. Dilion et al.—Memorandum for Getty et al. vs. Devlin et al.; Holloway vs. Stevens.—See opinions.
Chetwood vs. Chetwood.—Motion granted by delauit.

Monell.

McMicken et al. vs. Lawrence.—Judgment affirmed. Opinion by Judge Freedman.

Hoffman vs. Treadwell.—Order sustaining demurrer affirmed, with costs. Opinion by Judge Monell. Roderigas, administrator, &c., vs. The East River Savings Institution; Roderigas vs Same.—Judg-

Savings Institution; Roderigas vs Same.—Judgments affirmed.
The American Corrugated Iron Company vs. Eisner et al.—Judgment affirmed, with costs. Opinion by Judge Moneil.
Richards et al. vs. Woodruff et. al.—Judgment affirmed. Opinion by Judge Freedman.
By Judges Moneil and Van Vorst.
Rae vs. The Mayor, &c., of New York.—Order affirmed, with costs. Opinion by Judge Moneil.
By Judges Freedman. Curtis and Speir.
Hale vs. The Omana National Bank.—Judgment affirmed, with costs. Opinion by Judge Speir.

amrmed, with costs. Opinion by Judge Speir.

COMMON PLEAS—GENERAL TERM.

By Chief Justice Daiv and Judges Loew and J. F. Daly.

Seaman vs. The Mayor, &c.—Judgment reversed, new trial ordered; costs to abide event; opinion by Judge Loew.

Haden et al. vs. Buddensick.—Judgment amrmed, with costs; opinion by Judge Loew.

Conint vs. Cantrell.—Judgment amrmed, with costs; opinion by Judge Loew.

Thompson vs. Lumiey et al.—Judgment reversed, new trial ordered; costs to abide event; opinion by Judge Loew.

Groez vs. Daiy.—Order appealed from amrmed with costs; opinion by Judge Loew and Chief Justice Dais.

Schukraft vs. Ruck et al.—Judgment reversed and judgment absolute for delendant; opinion by

schukraft vs. Ruck et al.—Judgment reversed and judgment absolute for defendant; opinion by Cniel Justice Daly. Fallon, by guardian, &c. vs. The Central Park. North and East River Railroad Company.—Judg-ment affirmed with costs; opinion by Cutef Justice Daly.

Daly.

Astor vs. The Mayor, Ac.—Judgment affirmed, with costs. Opinion by Chief Justice Daly.

The Andes Insurance Company vs. Loehr.—reargument granted. No opinion.

The Huguenot National Bapk vs. Studwell.—Judgment reversed; new trust ordered, costs to abide event. Opinion by Judgh Larremere.

Hastings vs. Young.—Judgment reversed, with costs. Opinion by Chief Justice Daly. COMMON PLEAS—EQUITY TERM.

By Judge Loew.

Oatley vs. Fettretch.—See memorandum with

Clerk. See papers.

Kenney vs. The Seamen's Bank, &c.—Judgment for p aintiff. See papers.

Taylor vs. Goodridge.—Judgment for defendant. See papers with Clerk of Part 1.

By Judge J. F. Daly.
Cashman vs. Martinson.—Case settled.
Greedman vs. Stuart.—Order signed. MARINE COURT-CHAMBERS.

MARINE COURT—CHAMBERS.

By Judge Alker.

Stout vs. Harreman; Schermernorn vs. Carter;
Farena vs. Decker.—Motions denied.

Fosdeck vs. Wines; Willis vs. Donell; Elisworth vs. Peters; Kidd vs. Petersen.—Motions granted on memorandums.

By Judge McAdam.

Feuring vs. Rootinson; Ailen vs. Asbestos Felting Company.—Motions granted.

Richards vs. Ellison.—Motion to open default granted.

Hyatt vs. Smith.—Motion granted with costs and \$25 allowalce, unless cenditions are compiled with.

By Judge Gross.
Schlader vs. Evans.—M. tion denied.
Kiersted vs. Hart.—Order for substituted service allowed.
By Judge Joachimsen.
Body vs. Holman.—Judgment for plaintif,
Kann vs. Mossacher.

\$184 77.

Kahn vs. Moses.—Judgment for plaintiff, \$147 20.
Pleuss vs. Capmann.—Complaint dismissed as not stating facts sufficient to constitute a cause of action, with costs.

Meyer vs. Sloessel.—Judgment for plaintiff, \$147 20.

COURT OF GENERAL SESSIONS. Before Judge Sutherland.

In the Court of General Sessions, before Judge Sutherland, the March term was opened yesterday morning. Assistant District Attorney Nolan represented the people. The Grand Jury were empanelled and John M. Alcott was appointed to act as foren an. His Honor delivered a brief cnarge, simply confining himself to a recapitulation of the statutes which the presiding Judge is required to enumerate.

LABCENT. Richard Fleming, alias Richard Flanagan, who was charged with having, on the 11th of February, stolen an overcoat worth \$40 from the nouse of Emma Rein, No. 76 St. Mark's place, belonging to Marcus Cohen, pleaded guilty belonging to Marcus Cohen, pleaded guilty to an attempt at grand larceny. He was sent to the State Prison for eighteen months. The same sentence was passed upon Patrick Carios, who piended gnilty to an indistinguishment charging him with receiving stolen goods. It seems that the store of Gordon & Skully, No. 603 Eighth avenue, was burglariously entered on the 29th of December and \$100 worth of property stolen, a portion of which was found in the prisoner's possession.

. TOMBS POLICE COURT. Before Judge Smith. ALLEGED CONSPIRACY.

William W. Austin and Andrew J. Milligan were released on their own recognizance at this Court yesterday on the charge of conspiracy. It is alleged that on Saturday last Milligan obtained \$11 from the wife of Clear Hussey, on pretence of paying his fine, he paving been locked up in the Tomos on a charge of intoxication. Austin went to the Judge, represented that Hussey was his friend and asked that he be released. When Hussey was brought up from jail he said he had never seen Austin before, but that Milligan, who is the runner of the jail, had come to him in as cell and toole him he (Hussey) was fined \$10. Hussey sent Milligan to his wile toget the money. He got \$11, and gave a receipt for it. Yesterday sibilgan and Austin were brought before Judge Smith, who discharged them on parole to find ball in \$200 each.

VIOLATING THE EXCISE LAW. Fred. Bergeman, No. 147 West street; Henry Hofer, No. 209 Fulton street; James Dorcher, No. 306 Washington street; Louis Bohling, No. 186 West

lated the Excise law by keeping open store on JEFFERSON MARKET POLICE COURT.

Before Judge Otterbourg. THE WOOSTER STREET OUTRAGE. Charles A. Blair, the colored waiter, who as Charles A. Blair, the colored waiter, who assaulted two white women, named Jane Clark and Delia Talbo, in the house No. 42 Wooster street, on Sunday night, was arraigned before Judge Otterbourg yesterday morning. Both women preferred charges against the prisoner, and he was held in \$2,000 batt to answer at the General Sessions. The women were sent to the House of Detention.

ESSEX MARKET POLICE COURT. Before Judge Bixby.

THE DELANCEY STREET STABBING AFFRAY. John Homan, of No. 79 Norfolk street, became engaged in a quarrel with Valentine Dabren, bar-keeper of a saloon, corner of Ludlow and Delanoey streets, on Saturday night last. Dabren stabbed Homan twice in the back and once in the neck. The wounded man was taxen to Bellevue Hos-pital and Dabren as the time escaped. Officers Dyer and Sullivan, or the Tenth precinct, however, succeeded in arresting Dabren on Sunday even-ing. He was brought before Judge Bixby vester-day, at Essex Market Police Court, and held in 00 ball to answer

COURT CALENDARS-THIS DAY.

SUFREME COURT-CHAMBERS-Heid by Judge Conshuc. No. 225.
SUFREME COURT-GENERAL TERM-Heid by ndges Davis, Brady and Daniels. Nos. 14, 16, 7, 18, 21, 22, 26, 27, 29, 31, 32, 33, 36, 36, 37, 44, 60, 1, 62, 63. 17. 18, 21, 22, 26, 27, 29, 31, 32, 33, 36, 36, 37, 44, 60, 61, 62, 63.

SUPREME COURT—SPECIAL THEM—Held by Judge Van Brunt.—Issues of law and fact.—Nos. 272, 174, 99, 100, 206, 210, 211, 212, 131, 65, 182, 166, 171, 61, 167, 149, 156, 216, 217, 218, 219, 220, 221, 222, 223.

SUPREME COURT—CRECUIT—PART 2—Held by Judge Van VOTSL.—Nos. 1306, 1106, 1238, 272, 1298, 672, 1232, 1246, 1248, 1250, 1252, 1254, 1256, 1258, 1260, 1202, 1204, 1270, 1272, 1274, 1274, 1274, 1278, 1282, 1284, Part 3—Held by Judge Lawrence.—Nos. 108, 847, 2329, 917, 1187, 833, 1830, 831, 775, 56, 877, 1903, 829, 1005 1307, 22414, 1059, 1009, 1011, 1015, 1017, 1019, 1023, 1025, 1027.

SUPERIOR COURT—GRNERAL TERM—Held by Judges Sedgwick and Speir.—Nos. 3, 4, 5, 6, 7, 8, 9, 11, 12, 13, 14, 15.

SUPERIOR COURT—TRIAL TERM—PART 1—Held by Judge Knoell.—Nos. 501, 1225, 925, 901, 919, 933, 889, 489, 825, 887, 861, 713, 873, 559, 833. Part 2—Held by Judge Freedman.—Nos. 962, 1022, 1024, 1030, 1042, 1080, 28, 908, 984, 1052, 1070, 1884, 968, 922.

COMMON PLEAS—TRIAL TERM—PART 1—Held by Judge Robinson.—Nos. 2099, 404, 844, 1856, 1850, 2320½, 2409, 2228, 2376, 2378, 2432, 2359, 2315, 2316, 2001.

2292.—Part 2.—Adjourned until the first Monday of April.

COMMON PLEAS—GENERAL TERM—Heid by Judges Daly, Loew and J. F. Daly.—Nos. 29, 88, 194, 108, 109, 111, 113, 115, 120, 124, 125, 126, 127, 128, 129, 131, 132, 133, 134, 136.

MARINE COURT—TRIAL TERM—Part 1.—Heid by Judge Spaulding.—Nos. 661, 990, 1490, 2750, 3163, 1355, 1536, 1299, 4172, 1638, 2991, 3132, 1662, 1656, 1657, 1871, 2840, 1600, 1605, 1806, 1607, 1505, 1506, 1608, 1657, 1821, 1863, 1638, Part 3.—Heid by Judge Spaulding.—Nos. 3047, 2531, 648, 2998, 3175, 3248, 5277, 297, 1286, 2110, 2504, 2726, 2903, 3041, 3087.

COURT FOR FERNAL SESSIONS—Heid by Judge Sutherland.—The People vs. Charles Thompson, rape; Same vs. William Martin, burglary; Same vs. Homas Marcin, burglary; Same vs. Herman Rionard, grand larceny; Same vs. Hermy J. Heims, lorgery; Same vs. Hermy J. Heims, lorgery; Same vs. Hester J. Haskins, abduction; Same vs. Henry Daniels, petit larceny (Rve Cases).

BROOKLYN COURTS.

BROOKLYN COURTS. Before Judge McCue. ANOTHER SOCIAL SCANDAL IN BROOKLYN SO-CIETY.

Yesterday morning the trial of the suit for ab olute divorce brought by George S. Mackenzie against his wife Charlotte J. Mackenzie, was commenced in the City Court, Part 1, Judge McCue presiding. The fact becoming known that there was a delicious scandal going on in the closest ploximity to the Beecher trial proved quite a consoling morsel to the morbid mourners after immoral sensations who were waiting in line, hopeiessly awaiting an opportunity crowd into the Plymouth trial room. throng immediately emptied out of the cold corridors into Part 1, with an air of gratification which bespoke the thought uppermost as they entered, "here's richness." The officers on duty at this latter court room did not question the genuineness of the tickets presented, but took them up in regular order as presented. Some ludicrous inchaents occurred, in which people from other localities found their way into the Mackenzie trial, and quietly remained for a long time eagerly reviewing the scene and casting about in vain for the Rev. Henry Ward Becomer and "tempest tossed" incoders. One of the officers remarked to the writer, "Now, sir, if we could only get up another divorce suit in one of the Supreme Courts on this corridor we would have no trouble with the crowds for the luture, and there would be breathing room in the Beccher trial." nost as they entered, "here's richness,"

Trial."

The case in point is one of considerable interest, owing to the respectability of the plaintiff and defendant in the suit and the gross nature of the complaint. The ausband in his complaint alleges that he was married to Charlotte J. Mackenzie November 23, 1863, in Brooklyn, and continued to live with her until last October, when he discovered for the first time that she had been guilty of adultery with several men. He charges that at his residence, No. 472 State street, she has proved failse to her marriage vows with James M. Kan-

covered for the first time that she had been gunty of adultery with several men. He charges that at his residence, No. 472 State street, she has proved laise to her marriage vows with James M. Rankin, A. G. Rosboro and one David M. Coroitt. The inndehity with the latter is alleged to have taken place at the house of Mrs. C. G. Beach, No. 14 Hanover place, as well as at the residence of the plaintiff. Charles A. Lewis is also one of the alleged paramours of the wife. The plaintiff is a man about thirty-jour years of age and a tea merchant, doing an extensive business in New York. The alleged guilty male acquaintances of Mrs. Mackenzie are men of position and means, and the charge has naturally excited great curiosity, as it seems to their friends to be almost incredible.

MRS. Mackenzie's answer.

The defendant is a rainer fine looking matron and has five children—three girls and two boys—the eldest being nine years and the youngest eighteen months. In her answer she denies each and every charge made by her husband, and ingrhermore see accuses him of naving been false to his marriage vows at different times and places and with various women. One of the latter she alleges to nave been a domestic, Fanny McFernal. She charges him with being a man of cruel and violent temper, who has treated her in the most brutal manuer, striking her repeatedly on the lace and breast, and also with having on the 28th of occober, 1874, turned her out of the bouse and locked the door on her. One of the alleged particeps criminals swears that he. A. G. Rosboro, saw the lady, Mrs. Mackenzie, but four times in his life and was very slightly acquainted with her. Third parties were always present when they met, and so far as he knows.

Mr. David M. Corbett, in his affidavit, swfars that he has known the delendant for many years, both the street by him.

The defendant is the daughter of one of the oldest iamilies of Brooklyn, and the couple are supposed to have been upon the most happy terms up to within a short period of their separation.

woman.

Mr. MacKenzie was called to the stand and testified to the facts set forth in his complaint.

Fanny McFernan, who testined for the plaintin, stated that gentiemen frequently visited the house in the absence of Mr. MacKenzie, and that Mrs. MacKenzie was guilty of gross impreprieties with them. The case will be resumed to-day.

GAN-HAMMILL MURDER TRIAL GOES OVER FOR

THE TERM. Before Judge Pratt. was organized yesterday forenoon, Judge Pratt presiding, for the March term. A Grand Jury was empanelled. District Atto ney Winchester Britton moved that the trial of Sarah C. Merrigan, indicted for the murder of Margaret Hammil, be called. Objection was made by the counsel for Mrs. Merrigan to the motion on the ground that they (Messrs. Keany and Tracy) were onsily engaged in the Tilton-Beecher case, and it was not likely that they would be ready to proceed with the case of Mrs. Merrigan must next month. Upon these representations Judge Fratt ordered the trial to be set down for the second Monday in April, the 12th of the month. The prisoner was, it will be remembered, tried tast snamer, and, the jury miling to agree upon a verdict, she was remanded to the Raymond Street Jud, where she has since since remained. She is in delicate health, and expresses herself as very anxious that her case should be definitely disposed of. ton moved that the trial of Sarah C. Merrigan,

KINGS COUNTY SUPREME COURT CALENDAR A THEATRICAL LIBEL.

Application for the Arrest of Dion Boucicault.

THE MOTION DENIED.

Josh Hart's Complaint Against the Dramatist.

Active rehearsals are being made preliminary to introducing with proper effect on the legal stage the libel suit brought by Josh Hart against Dion Boucicault. The former expects to make \$50,000, while the latter is emphatic in the declaration that it will be a failure. Meantime people with keen zest the course of events. The last forthcoming grand drama-was a renewal yesterday on behalf of Mr. Hart of the pplication for an order of arrest against Mr. Boucicault. This renewal was made before Judge was done was the submission of papers in sup-port of the application, excepting the slight afterpiece of interviewing Judge Donohue by one of the counsel after a denial of the application.

First in order came the complaint of Mr. Hart, in which are set forth the grounds of his sait against Mr. Bouckeaut. The complaint is as fol-

against Mr. Boucicauit. The complaint is as follows:—

New York Supreme Court—County of New York—Josh Bart ve. Dion Boucicauit:—The complaint of the above named plaintiff by his attorneys. Lockwood and Post, respectfully shows to this Court: Pirst, that until the time hereinaiter meuhoned, the plaintiff bore a good hame, reputation and credit, and the plaintiff bore a good hame, reputation and credit, and the plaintiff bore a good hame, reputation and credit, and the plaintiff bore and the county of New York, and the county of New York and the county of New York and caused to be published of and concerning the plaintiff in a paper called the New York Hesaap, published and caused to be published of and concerning the plaintiff at the city of New York, in the county and state of New York and having a large circu-ation, a certain article containing the false, defamatory and libellous matter following, to wit:—'I (meaning the delendant herein) caught the defendant (meaning the plaintiff herein) with my stolen property on his person uneauming on the person of the plaintiff herein). The Judge made him sive it up. There was some other property also stolen goods, found in the pockets of the thiel immansing the plaintiff), and because I made no claim on that he triumphs in its possession." The decision of Mr. Justice Woodruff, of the Ureuit Control that the States for the plaintiff in said court sustains my copyright and dismisses the detendant's plea meaning the piea m said cause of the plaintiff in each court sustains my copyright and dismisses the detendant's plea meaning the plea master that plaintiff in said court sustains my copyright and dismisses the detendant's plea meaning the piea m said cause of the plaintiff in each court sustains my copyright and dismisses the detendant's plea meaning the piea m said cause of the plaintiff in said court sustains my copyright and dismisses the detendant's plea meaning the piea m said cause of the plaintiff in said court sustains my copyright and dismisses the detendant's pl

MR. BOUGGAULT'S RESIDENCE.
Then followed the following affidavit of Mr.

Hart, which, after simply recapitulating the allegations of libel contained in the above complaint. treats of Mr. Bouricault as not having a "local habitation" in this country, and, therefore, liable, after utifilling his present engagement at Wallack's and a succeeding one in Boston, to place himself beyond the jurisdiction of the Court. lack's and a succeeding one in Boston, to piace himself beyond the jurisdiction of the Court.

City and County of New York, as: -Josh Hart, the said planntiff, being duly sworn, says-first, that he now is, and for years has been, a resident of the city of New York and energed in business in said city, and has always been of good name and credit; second, that on or about the leth day of rebruary, 1875, the above named detendant maliciously composed, published and caused to be published of and concerning the planntiff, in a newspaper called the New York Heratho, at the city of New York, in the county and state of New York, a certain article containing the faise and detamatory and libellous matter following, to wit:-''l caught the detendant measing the deponent with my stolen property on his person meaning the person of deponent. The Judge made him gives tup. There was some other property, also stolen goods, found in the peckets of the thier (meaning this deponent) and because I meaning the detendant herein made no claim, on that he (meaning deponent) tritumpha in its possession." Which said articles did also contain other false, thould be an additional threath and actions there is impudent pirates and an actions thieves (meaning this deponent among others) who prow around the purilens of the drama to seize on every success? whereby and by means of said publication the deponent was greaty littered in the course of his which exists and reputation. Intriduction is the said good name and reputation. Intriduction is the said and are not residents of the vitied States and the said and are not residents of the city of N

An action against the above names and. Josh Hart.

Sworn to, before me, this 24th day of February, 1872.

Janss H. Firch. Notary Public. New York county.

CORROBORATING APFIDAVITS.

Third in order ensued the following amdavits touching likewise upon the peripaletic proclivities of Mr. Boucicaut. They exclain themselves:—

City and County of New York, sr.—James B. Lockwood, being duly sworn, says he is one of the firm of Lockwood and the peripaletic proclivities of Mr. Boucicaut. They exclain themselves:—

City and County of New York, sr.—James B. Lockwood, being duly sworn, says he is one of the firm of Lockwood and the Post, paintiffs attorneys hereful, that on the 19th of February last he submitted to His Honor Judge of arrest against the defendant above matter of Judge of arrest against the defendant above matter of Judge of Arrest against the defendant above matter of Judge of the County of the Arrest of the Arrest against the defendant above matter Judge of the His Honor returned the papers to depondent, deciting to grant the order, giving as a reason that it did not seem sufficiently clear to him from the papers that the detendant was at transient person. He (Judge Lawrence) informed deponent also that he was at liberty to make turther application to any other justice, or that he would entertain such application himself, although he preferred it should be made before another justice.

Sworn before me, February 23, 1875.—Hussar A. Les, Commissioner of Decas, New York county.

City and County of New Fork, ser—John H. Deladeld, being duly sworn, says, he is residing at No. 30 Bowery, in the city of New York, that he knows the defendant in this action; that said defendants an actor and has Lopermanent engagement at any theatre or any place, but makes temporary engagements to play at varous theatres in England, and in this action; theatres in England, and it was a process and believes the said defendant is in England; that defendant is at present playing

M. EMERSON, NOTARY Public New York and Kings counties.

COUNSEL INTERVIEWING JUDGE DONORUE.

After Judge Dononue had read the above papers he said he could not, upon them, grant the order of arrest asked for. Thus the matter rested until Judge Dononue left the court. Mr. Post, one of the counsel, at once hurried after him to get further posted as to the reasons for denying the application.

"On what grounds do you deny the application?" inquired Mr. Post.

"Up to December the plaintid," Judge Dononue replied, "was entitled to an order of arrest under the code, but in the Havemeyer case Judge Barrett had come to the conclusion that the courts could use their own discretion. I have consulted the other Judges, and they have concluded not to issue orders of arrest in their cases unless the defendant is a transient person, and I win not astisfied from the papers that Mr. Boucleault comes within this category."

"I can procure additional affidavits as to the residence of Mr. Boucleault, I ask permission to renew the application before another Judge," persis, ed. Mr. Post.

"In the reason, as I have already toid you, that the Judges have unanimously decided that this, under the rule, is not a case for an order of arrest."

"I am airaid," continued Mr. Post, "that if I should obtain a judgment against Mr. Boucleault

during the fire in the tenement house No. 627 East Ninth street, on the 15th ult. Several addition witnesses were examined, but their testimony was substantially the same as heretofore published. The jury rencered the following remarkable verdict:—"The undersigned jurors having heard all the evidence in relation to the cause of death of Mrs. Wells and child are unanimously of the opinion that no one is to blame, except the members of Mrs. Wells' family, who did not make timely efforts to escape by the scuttle or by the fire escape." The Coroner was much astonished at the verdict, particularly as there seemed to be no evidence to warrant it.

BERGH'S CONTEMPT.

RECORDER HACKETT PUBGES AND LETS HIS GO-THE POINTS OF DECISION.

While Judge Sutherland was busy yesterday in the Court of General Sessions empanelling the Grand Jury for the March term, Recorder Hackett entered the court room for the purpose of hearing the argument in the Bergh contempt case.

Mr. Elbridge T. Gerry, counsel for the accused, began by saving that by the old common law there were two kinds of contempt, physical and constructive. The former was committed in the immediate view and presence of the Court, and the latter outside of the immediate view and presence; that he would endeavor to show that the common law rule of contempt did not now exist in this State. This sending of a communication to a Grand Jury was a constructive contempt, because it was done outside of the immediate pres abolished the common law rule of contempt, and provided that every court of record should have power to punish for contempt persons guilty of offences committed in the immediate presence of

Recorder Hackett -Are you aware that it has been decided in this State that the immediate presence of the Court is not only the room in the room to which its petit jury retires, and the

Mr. Gerry, in arguing upon this point, claimed that the offence charged against his client, if an offence at all, was not committed within the im-mediate presence of the Court. The meaning of mediate presence of the Court. The meaning of the words "immediate view and presence" was that the Court must have occular view of the proceedings. He claimed also that his client was not within the statute, as the common law rule of contempt had been abolished; that the offence must be commuted at the bar of the Court, and that the letter was a mere expression of opulon telling the Grand Jury that they had acted erroneously in dismissing the complaint. He then read the affluavit of Mr. Bergh, to the effect that on the 8th uit., eight witnesses for the people appeared before the Grand Jury, that only two of them were calledone to be complaint. He then read the affluavit of Mr. Bergh, to the effect that on the 8th uit., eight witnesses for the people appeared before the Grand Jury, that only two of them were calledone the police officer who made the arrest, and the other a man who was in the piace of the man Carpenter and saw the dogs fighting; that the complainant was not called any that the accused was, in his own language, "honorably discharged."

In conclusion, Mr. Gerry said he would submit that the letter sent to the Grand Jury was at best but an expression of opinion, and that there was no contempt committed, inasmuch as the Grand Jury did not at the time have the case in question under consideration.

The Recorder then read the following decision:—

nder consideration. The Recorder then read the following decision:-

cuisade interierence which should be submitted to my consideration. But Mr. Bergh shows that he is for the purpose of his society both a Deputy Attorney General and an Assastant District Attorney by written appointments from Messra Pratt and Pheips. Mr. ergh in his affidavit swears:—"such letter was sent and intended to be sent as an official communication in the interests of the people of this State, which deponent then honestly believed he was then representing, and not to subserve any private or personal interest, or to gratily any individual speen or malice. And deponent firmly and conscientiously believed at the time that he was only doing his duty, and that his course was entirely justifiable under the authority derived from the Attorney General and District Attorney referred to. Court makes of State and Helper of the Grand Jury ought not to be considered a contempt, unless it clearly appeared that it was designed to interrupt the administration of justice. The Supreme Court has held (Weeks vs. Smith, 3 Abb. Froc. R., p. 21) that if the alleged contempt be capable of a construction consistent with innocence of the party of any intentional disrespect there is no legal contimpt. It would seem that Mr. Bergh's explanation that he was acting as the agent of the prosecuting officers, is consistent with innocence. The Court, however, trusts that it may be pardoned for observing that the representative of the sacreter is mode than the foretter to re, and to renember an oid saying. "Intelligence that he was acting as the agent of the prosecuting officers, is consistent with innocence. The Court, however, trusts that it may be pardoned for observing that the representative of the sacreter is mode than the foretter to re, and to renember an oid saying. "Intelligence the prosecuting officers, is consistent with those gentlemen, if not to binned, to infuse into bis oral intelligence to the sacreter is mode than the profeter to re, and to renember an oid saying. "Intelligence the proper in the profeter to re, and to r

MORE BAILWAY COMPLICATIONS-ELECTION IN THREE C.'S AND L -A PROPOSITION FROM ST. TOTTE AND TRON MOUNTAIN

The street was not actively excited yesterday except inasmuch as it worked some slight changes in current valuations. Thus there were move ments without results of importance.

THREE C.'S AND I.,
as it is familiarly called, meaning Cleveland, Columbus, Cincinnati and Indianapolis Railroad, had a meeting at Mr. Barlow's office, which contained a two-thirds representation, and considered a new same as last year, with the excep-Judge Burke, of Cleveland, was also added to the direction, the judge representing a large portion of the English holders of the stock. The conflict in the meeting was, as reported, to

Sworn to before me this 36th day of Fedrary, 1873.—I.

M. Essanos, Notary Public New York and Kings counties.

COUNARL INTRIVIEWING JUDGE DONORUE.

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